

30

WILMER, CUTLER & PICKERING

2445 M STREET, N.W.
WASHINGTON, D.C. 20037-1420

TELEPHONE (202) 663-6000
FACSIMILE (202) 663-6363

WILLIAM R. RICHARDSON, JR.
DIRECT LINE (202) 663-6038

100 LIGHT STREET
BALTIMORE, MD 21202
TELEPHONE (410) 986-2800
FACSIMILE (410) 986-2828

4 CARLTON GARDENS
LONDON SW1Y 5AA
TELEPHONE 011 (44) 171 839-4466
FACSIMILE 011 (44) 171 839-3537

RUE DE LA LOI 15 WETSTRAAT
B-1040 BRUSSELS
TELEPHONE 011 (32) 231-0903
FACSIMILE 011 (32) 230-4322

FRIEDRICHSTRASSE 95
D-10117 BERLIN
TELEPHONE 011 (49) 30 2022-6400
FACSIMILE 011 (49) 30 2022-6500

EX PARTE OR LATE FILED

January 23, 1997

BY HAND

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RECEIVED
JAN 24 1997
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

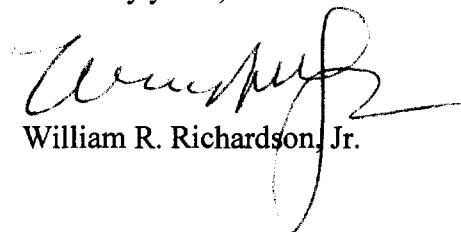
Re: CS Docket No. 96-60
Ex Parte Presentation

Dear Mr. Caton:

On behalf of ValueVision International, Inc. ("ValueVision"), and pursuant to Section 1.1206 of the Commission's rules, this letter is being filed in duplicate to notify the Commission of the attached written communication in connection with the above-referenced proceeding.

If there are any questions concerning the above-referenced matter, please communicate with the undersigned.

Sincerely yours,


William R. Richardson, Jr.

cc (by hand): Anita Wallgren
Blair Levin
Jackie Chorney
Jim Coltharp
Suzanne Toller

No. of Copies rec'd
List ABCDE

041

WILMER, CUTLER & PICKERING

2445 M STREET, N.W.
WASHINGTON, D.C. 20037-1420

TELEPHONE (202) 663-6000
FACSIMILE (202) 663-6363

WILLIAM R. RICHARDSON, JR.
DIRECT LINE (202) 663-6038

100 LIGHT STREET
BALTIMORE, MD 21202
TELEPHONE (410) 986-2800
FACSIMILE (410) 986-2828

4 CARLTON GARDENS
LONDON SW1Y 5AA
TELEPHONE 011 (44171) 839-4466
FACSIMILE 011 (44171) 839-3537

RUE DE LA LOI 15 WETSTRAAT
B-1040 BRUSSELS
TELEPHONE 011 (322) 231-0903
FACSIMILE 011 (322) 230-4322

FRIEDRICHSTRASSE 95
D-10117 BERLIN
TELEPHONE 011 (4930) 2022-6400
FACSIMILE 011 (4930) 2022-6500

January 23, 1997

BY HAND

Ms. Anita L. Wallgren
Office of Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W.
Room 832
Washington, D.C. 20554

Re: CS Docket No. 96-60
Ex Parte Presentation

Dear Ms. Wallgren:

On behalf of ValueVision International, Inc. ("ValueVision"), this letter is intended to demonstrate the substantial support, in the record of this proceeding and elsewhere, for the opportunity cost/market formula proposed in the Commission's March 1996 notice, and for the inadequacy of the implicit fee standard.

1. There is abundant support for the Commission's proposed solution from the commenters, other than cable operators and incumbent cable programmers selected by those operators.^{1/} These supporting parties include Erwin Scala Broadcasting Corporation, Beach TV Properties, Inc., Adirondack Television, Sherjan Broadcasting Co., Inc., Sunbelt Video, Inc., The Bruno Goodworth Network, Inc., Center for Media Education, Alliance for Community Media, Association of Independent Video and Filmmakers, Consumer Federation of America, National Association of Artists' Organizations, United States Catholic Conference, the Denver Area Educational Telecommunications Consortium, Inc., Sony's Game Show Network, and ValueVision. In addition, I have enclosed for the record a dozen more statements recently filed by programmers with members of Congress, urging them to support meaningful reform of the

^{1/} Of course, some leased access proponents applaud the Commission's efforts but believe that the formula does not generate rates that are low enough (e.g., Community Broadcasters Association, United Broadcasting Corp., d/b/a/ Telemiami).

Commission's leased access rules.

2. The ex parte submission filed by Cox Enterprises, Inc. ("Cox") on November 15, 1996, and recently cited by the Commission in its third annual report to Congress on the status of competition in the market for delivery of video programming,^{2/} does not begin to rebut the substantial record evidence in this proceeding -- from other cable operators^{3/} as well as leased access programmers^{4/} -- that the present leased access rules have not served to make leased access the "genuine outlet" that Congress intended.^{5/} While the Cox letter states that "[r]oughly 75% of Cox's cable systems currently carry some leased access programming" (emphasis added), it admits that only "several" of its systems are even "nearing" their statutory set-aside requirement. Moreover, as the Commission has recognized in its recent report, the Cox letter indicates that most of what leased access programming Cox does carry on these systems is only carried on a part-time basis.

Cox's data -- which is limited to 13 "representative" systems -- is also inconsistent with its own more recent information supplied to ValueVision. Only six of the Cox systems are reported as carrying any full time leased access users. On January 7, 1997, ValueVision sent a request for information to each of these six systems concerning its rates and availability of channels for leased access. Only three of these six responded with information concerning

^{2/} FCC 96-496 (rel. Jan. 2, 1997), at 83 & n.473.

^{3/} See, e.g., Comments of NCTA at 6 ("absence of widespread leasing"); TCI at 5 ("leased access does not work for most conventional, commercial cable television program services"); Adelphia, Century, Falcon, Insight, and Lenfest at 2 (highest implicit fee formula "did very little to stimulate the use of leased access capacity"); Buckeye Cablevision at 7 ("For most programmers desiring launch, leased access is not an option. . ."); Daniels, Greater Media, Helicon, Marcus Cable, Prime Cable, Scripps Howard Cable, TCA Cable, Texas Cable and Telecommunications Association, Allen's TV Cable, Halcyon, James Cable, Moffat at 7 (advancing reasons why "more leased channels have not been fully utilized"); Continental at 2 ("dearth of potential leased access programmers"); Time Warner at 24 ("lack of demand" for leased access).

^{4/} Comments of Adirondack at 2 (high rates "have effectively put leased access off-limits"); Sherjan Broadcasting at 2 (cable industry "stonewalling" has "destroy[ed] any possibility" of leased access); Blab TV at 4 ("dearth of leased access programming"); Game Show Network at 5 ("virtually impossible" to obtain access under current leased access regime); RK Production Co. at 2 (system operators have "give[n] the appearance of access but the reality of no access"); Sunbelt Video at 2 (MSOs quote rates that are "so high as to preclude any possible access by small programmers").

^{5/} See S. Rep. No. 92, 102d Cong., 1st Sess. 79 (1991).

availability of channels.^{6/} These responses are attached. Two of the three (Pensacola and Fort Walton) reported using only one channel for leased access programming (not 4 and 3, as respectively indicated in the Cox letter) and no full-time users (as opposed to the 3 and 2 respectively indicated in the Cox letter). The third one (Hampton Roads) identified four must carry stations as among its channels set aside for commercial leased access.

It also appears, as Cox suggests, that the only way it has filled any of its designated leased access channels is by charging rates that are below its maximum permissible rate under the implicit fee formula. But Congress has determined that it is only by requiring maximum rates to be reasonable that the Commission could create a "genuine outlet" for unaffiliated programmers and avoid continued editorial control of these channels by the operator.^{7/} As indicated by a wide variety of commenters in this proceeding, the Commission's proposed formula is a workable one designed to satisfy that statutory requirement.

Respectfully submitted,

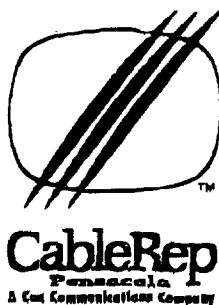


William R. Richardson, Jr.

cc: Blair Levin
Jackie Chorney
Jim Coltharp
Suzanne Toller

^{6/} A fourth system provided only rate information. ValueVision has not received any information at all from the remaining two systems.

^{7/} Despite the plain language of the statute, this editorial control has been repeatedly defended by cable MSOs as necessary in light of their familiarity with subscriber preferences. This argument is increasingly difficult to justify in light of the enormous public outcry that required TCI in the last month alone to reinstate three cable channels (VH1, MTV, and WGN) that it had recently decided to drop in favor of programmers that agreed to substantial up front payments. See Broadcasting and Cable TV Fax, Jan. 23, 1997.



**LEASED ACCESS
SYSTEM RESPONSE TO
REQUEST FOR CHANNEL LEASE**

January 10, 1997

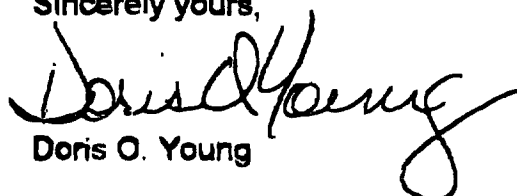
Mr. Robert Manning
Value Vision International
6740 Shady Oak Road
Minneapolis, Minnesota 55344

Mr. Manning,

We have received your request for leased access on the Emerald Coast Cable and our Pensacola system. The systems are currently is using Channel 19 for leased access programming. Emerald Coast and has a total leased access channel set aside requirement of 5 channels, Pensacola has a total leased access channel set aside requirement of 6 channels.

Enclosed are copies of our leased access rates; and a schedule of our available time. I have not sent the applications, as per your instructions during our phone conversation today.

Sincerely yours,



Doris O. Young

General Manager CableRep Pensacola/ Emerald Coast

Revised

CENTRAL TIME:	MON	TUES	WED	THURS	FRI	SAT	SUN
0600AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0630AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0700AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0730AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0800AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0830AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0900AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0930AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
1000AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
1030AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
1100AM							
1130AM							
1200AM							
1230AM							
1300PM							
1330PM							
1400PM							
1430PM							
1500PM							
1530PM							
1600PM		ASI					
1630PM		ASI					
1700PM		ASI					
1730PM		ASI					
1800PM		ASI					
1830PM		ASI					
1900PM		ASI					
1930PM	ASI	ASI					
2000PM	ASI	ASI					
2030PM		ASI					
2100PM	ASI	ASI					
2130PM	ASI	ASI					
2200PM							
2230PM							
2300PM-0530AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>

Ft. Walton/Niceville

CENTRAL TIME:	MON	TUES	WED	THURS	FRI	SAT	SUN
0600AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0630AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0700AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0730AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0800AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0830AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0900AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
0930AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
1000AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
1030AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>
1100AM							
1130AM							
1200AM							
1230AM							
1300PM							
1330PM							
1400PM							
1430PM							
1500PM							
1530PM							
1600PM					ASI		
1630PM					ASI		
1700PM					ASI		
1730PM					ASI		
1800PM					ASI		
1830PM					ASI		
1900PM					ASI		
1930PM				ASI	ASI		
2000PM				ASI	ASI		
2030PM					ASI		
2100PM				ASI	ASI		
2130PM				ASI	ASI		
2200PM							
2230PM							
2300PM-0530AM	SHOP AT HOME	>>>>	>>>>	>>>>	>>>>	>>>>	>>>>

Fort Walton/Niceville Lease Access Rates

Price per hour - effective May 15, 1996

Category 3: All Others

Daypart	Price per Hour
6 am-noon	\$10
noon-5 pm	\$19.60
5-11 pm	\$80
11 pm-6 am	\$10

Category 2: 50% or less of time selling products or services to subs

Daypart	Price per Hour
6 am-noon	\$10
noon-5 pm	\$19.60
5-11 pm	\$80
11 pm-6 am	\$10

Category 1: Per event or channel basis

Daypart	Price per Hour
6 am-noon	\$40.37
noon-5 pm	\$132.50
5-11 pm	\$180
11 pm-6 am	\$30

Channel 19 - Emerald Coast Cable

A \$25 application fee is charged (non-refundable)

Production is available

3/4 inch tape format only



Destin Lease Access Rates

Price per hour - effective May 15, 1996

Category 3: All Others

Daypart	Price per Hour
6 am-noon	\$5
noon-5 pm	\$7.34
5-11 pm	\$20
11 pm-6 am	\$3

Category 2: 50% or less of time selling products or services to subs

Daypart	Price per Hour
6 am-noon	\$5
noon-5 pm	\$7.34
5-11 pm	\$20
11 pm-6 am	\$3

Category 1: Per event or channel basis

Daypart	Price per Hour
6 am-noon	\$12
noon-5 pm	\$18.56
5-11 pm	\$70
11 pm-6 am	\$10.25

Channel 19 -Emerald Coast Cable

A \$25 application fee is charged (non-refundable)

Production is available

¾ inch tape format only



Pensacola Lease Access Rates

Price per hour - effective May 15, 1996

Category 3: All Others

Daypart	Price per Hour
6 am-noon	\$29
noon-5 pm	\$83.82
5-11 pm	\$100
11 pm-6 am	\$10

Category 2: 50% or less of time selling products or services to subs

Daypart	Price per Hour
6 am-noon	\$29
noon-5 pm	\$83.82
5-11 pm	\$100
11 pm-6 am	\$10

Category 1: Per event or channel basis

Daypart	Price per Hour
6 am-noon	\$100
noon-5 pm	\$400
5-11 pm	\$500
11 pm-6 am	\$94.75

Channel 19 - Pensacola

A \$25 application fee is charged (non-refundable)

Production is available

¾ inch tape format only

225 Clearfield Avenue
Virginia Beach, Virginia 23462
ph (804) 497-1071
fax (804) 671-1501

CCHR: 010897-1

January 8, 1997



Mr. Robert Manning
Vice President, Affiliate Relations
Value Vision International
6740 Shady Oak Road
Minneapolis, MN 55344

Dear Mr. Manning:

We have received your request for leased access on the Hampton Roads' system. The system currently is using Channels 30, 65, 68, 95 and 96 for leased access programming and has a total leased access channel set aside requirement of 11 channels. Enclosed are (1) a copy of our leased access rates; and (2) an application which will enable us to respond properly to your request. Please fill out the requested information and return it to me with the \$25.00 application fee for processing. Leased Access is also available on the Peninsula (Newport News). If you are also interested in that particular area, please let us know and we will send you a copy of information for that area.

Sincerely,

A handwritten signature in cursive script that reads "Dana G. Coltrin / c.r.". The signature is written over a large, loopy initial "D".

Dana G. Coltrin

Director of Broadcast Services

DGC/cr

Enclosures

Cox Communications
 225 Clearfield Avenue
 Virginia Beach, Virginia 23462
 ph (804) 497-1071
 fax (804) 671-1501

HAMPTON ROADS - SOUTHSIDE LEASED ACCESS

RATE CARD



A. Full Time Carriage

(All rates are per month)

Leased Access Rate for Premium Services **\$256,314**

Leased Access Rate for Home Shopping **\$ 87,174**

Leased Access Rate for All Other Channels **\$ 87,174**

B. Part Time Carriage

HOURLY RATES

DAY	TIME PERIOD	HOME SHOPPING	PREMIUM SERVICES	ALL OTHER
MON-FRI	7AM-4PM	80.00	236.00	80.00
MON-FRI	4PM-6PM	201.00	591.00	201.00
MON-SUN	6PM-11PM	321.00	945.00	321.00
MON-SUN	11PM-12 MID	172.00	506.00	172.00
MON-SUN	12MID-7AM	41.00	121.00	41.00

Notes:

1. A security deposit, insurance, and/or bond may be required.
2. If technical support is required, there will be additional charges.
3. If billing and collection services are provided for Premium Service Leased Access, there will be additional charges.

Cox Communications
225 Clearfield Avenue
Virginia Beach, Virginia 23462
ph (804) 497-1071
fax (804) 671-1501



CHANNELS SET ASIDE FOR COMMERCIAL LEASED ACCESS:

Must Carry

WHRO-15
WGHT-27
WVBT-43
WJCB-49

Minority/ED

TLC -

Current Leased Access

SPICE - 24 Hour
SPICE II - 24 Hour



449 Broadway, 3rd Floor, New York, NY 10013 • (212) 966-5660 • Fax: (212) 966-5725 • <http://www.hitn.org>

December 5, 1996

VIA FACSIMILE (202) 224-0406

The Honorable Senator Daniel Moynihan
US Senate
464 Russell Senate Office Building
Washington, DC 20510

Dear Senator Moynihan:

As the owner of an independent public television station, I am very angry about the Federal Communications Commission's four year delay in implementing the leased access provisions of the 1992 Cable Act. These laws were intended to ensure that small stations like mine, who are not financially affiliated with the enormous cable companies that control cable system access, would have reasonable opportunities for local cable system carriage. The FCC's lengthy delay in implementing Congress's mandate has been extraordinarily harmful to programmers like me, as well as to the audiences we are trying to serve in the New York State area.

The 1992 leased access provisions -- which notably were not repealed in the 1996 Telecommunications Act -- were one of Congress's many responses to the increased concentration among cable system operators and the increased vertical integration between system operators and programmers. Having witnessed excessive cable company discrimination against programmers that did not have industry financial participation, Congress directed the FCC to develop regulations that would provide a realistic opportunity for unaffiliated programmers to crack the industry oligopoly and gain access to the viewing public. Unfortunately, in four years the FCC has yet to effectively implement Congress's mandate, while in the interim the integrated cable companies are charging outrageous rates for access when they are providing it at all.

Please let me know who in your office will assist in persuading the FCC to follow Congress's instructions on this issue. I will be telephoning soon to follow up.

Thank you for your consideration.

Sincerely,


Jose Luis Rodriguez
President

NS/yt

C:\OFFICE\WPWIN\WPDOC\SVILDA\LETTERS\ADAMATO.WPD

"EDUCATION, DEVELOPMENT AND GROWTH THROUGH TELECOMMUNICATIONS"

WRIW 23
OLDIES TELEVISION

viking communications, inc.

Attn: Ms. Deanna Kirtman, Leg. Dir.
Representative Patrick Kennedy
U.S. House of Representatives
1505 Longworth House Office Bldg.
Washington, DC 20515

December 31, 1996

Dear Representative Kennedy,

I am the owner of a low-power television station, the only locally owned television station in Rhode Island. As an owner and operator, I am very concerned about the Federal Communications Commission's four-year delay in implementing the leased access provisions of the 1992 Cable Act. These laws were intended to ensure that small stations like mine, who are not financially affiliated with the enormous cable companies that control cable access, would have reasonable opportunities for local cable carriage. The survival of my station depends upon cable access at reasonable rates. The FCC's lengthy delay in implementing Congress's mandate has been extraordinarily harmful to me, as well as to the audience we are trying to serve. I would appreciate your assistance in persuading the FCC to follow Congress's instructions on this issue.

Thank you for your consideration.

Sincerely,



Philip R. DeSano, Pres.

ten abbott park, providence, r.i. 02903-3735

tel: (401) 272-2558

fax: (401) 751-2910



Jan. 9, 1997

Honorable John McCain
United States Senate
241 Russell Senate Office Bldg.
Washington, DC 20510

RE: LEASED ACCESS

Dear Senator McCain,

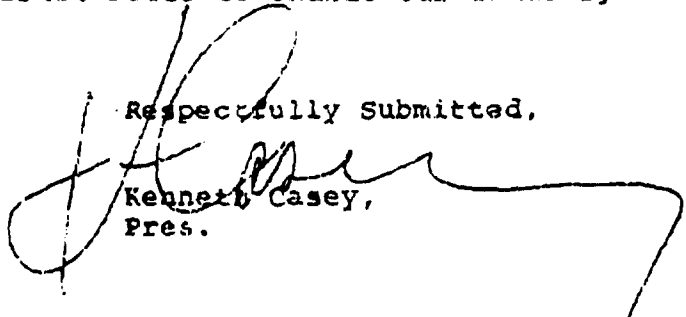
We own several LPTV stations, two in Phoenix, Arizona, KDMA channel 24 & 25 and one in Houston, Texas, channel 30.

We have tried our best, using every polite business manner possible for the past six (6) years to get on cable in Phoenix, and in Houston, to no avail. At one point we offered Cox Cable Company an incredible amount of \$10,000.00 per month to carry our channel 25. They turned us down! Now, they don't even return our phone calls. We have written several letters to them, one pleading for help some years ago to your office. No response. Nothing seems to work. But since cable companies are monopolies, it shouldn't surprise us. We don't know why you never responded to us back then, we still don't.

Very shortly, we could, with your help, at least get a fighting chance in the TV market place with cable leased access law, if enacted. We don't mind paying reasonable rates to get on cable. But the rates we have been quoted by the local cable company were outrageous, and not even close to fair market value. Virtually impossible to make a net profit with their monopolistic rates.

Mr. Chairman. will you help us, and hundreds of other LPTV stations, by raising the issue of leased access with Chairman Reed Hundt. He needs to understand that we need leased access at fair market rates to enable our industry to compete.

Respectfully Submitted,


Kenneth Casey,
Pres.

KC/cfw

One West Lone Cactus Drive • Phoenix AZ 85027 • (602) 581-2511 • FAX (602) 582-8229



November 20, 1996

The Honorable Clarence Irving, Jr.
Assistant Secretary for Communications and Information
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W.
Room 4898
Washington, D.C. 20510

Dear Mr. Secretary,

Four years ago, you along with Congressman Markey and Vice-President Gore led the victorious effort to enact the Cable Television Consumer Protection and Competition Act of 1992. Unfortunately, the FCC's implementation and oversight of leased access has been non-existent. This is partly due to the inept regulations approved by the FCC, which have harmed the very people — independent programmers and consumers — that they were intended to assist. Frankly, this entire leased access exercise has been a charade, with the only winners being the cable companies.

The only thing that any of us want is a fair arrangement for carriage on the local cable company's distribution systems. Carriage on these systems is vital because they are the only television distribution system serving the majority of residents. The cable industry is still enjoying the controlling position of being a monopoly.

I encountered a situation recently with a cable company in Colorado that astounded me, and I think you should be aware of this. I have filed for a lease channel with this cable company. I have requested a meeting with the manager of this cable company many times, but he rarely returns calls, and when he does, he always explains how busy he is and tells me why he can't meet with me. So he called and told me that he was channel locked and he can't put us on.

After mentioning the leased access rules, he told me that he knew the rules, and if I pushed him to put us on, he would take off a very popular network or all of the local FM radio signals, and put a spin on the situation that puts the blame directly on us.

We are a rather small company that specializes in serving the communities that we are based in. We do local news, community information, local high school sporting activities, etc. So for them to blast us with a bad reputation as we startup in this new community will be devastating. We won't be able to hire employees, sell advertising, or anything that we need in order to survive.

282 Wintergreen Road
Branson, MO 65616
(417) 334-1200

Eureka Springs, AR
(501) 253-9676

P.O. Box 4745
Breckenridge, CO 80424
(970) 453-0230

Not only are the leased access rates prohibitively expensive, but when we do offer to pay the high rate, we still get slammed. We need your help right now. Please tell the FCC that you have already given them a mandate to give local programmers access to cable systems. Things aren't working as they stand right now. Please get involved.

Best Regards,

A handwritten signature in black ink, appearing to read 'Scott Earls', with a long horizontal flourish extending to the right.

Scott Earls
General Manager
The Vacation Channel, Inc.



TV you can talk back to

The Honorable Joe Scarborough
U.S. House of Representatives
Fax (202) 225-4314

Dear Joe:

As the President of Blab TV I am getting increasingly angry with regard to the FCC's FOUR-YEAR DELAY in implementing the leased accessed provisions of the 1992 Cable Act. These laws were passed to ensure that small operations like mine, who have no affiliation with the enormous cable companies that control access, would have a reasonable opportunity for local cable carriage. The FCC's lengthy delay in implementing Congress's mandate has been extraordinarily harmful to local programmers such as myself, as well as to the audiences we are trying to serve.

The point of the above paragraph is dramatically driven home when you realize that Blab TV between 1984 and 1988 began programming in Pensacola FL., Mobile AL., New Orleans LA., Richmond VA., St Petersburg/Clearwater FL., and Sarasota FL. Since that time we have attempted no new expansions because of cable rates.

The 1992 leased access provisions - which notable were not repealed in the 1996 Telecommunications Act -- were one of Congress's many responses to the increased vertical integration between system operators and programmers. Having witnessed excessive cable company discrimination against programmers that did not have industry financial participation, Congress directed the FCC to develop regulations that would provide a realistic opportunity for unaffiliated programmers to crack the industry oligopoly and gain access to the viewing public. Unfortunately, in four years the FCC has yet to effectively implement Congress's mandate, while in the interim the integrated cable companies are charging outrageous rates for access when they are providing it at all.

Please let me know who in your office will assist in persuading the FCC to follow Congress's instructions on this issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Fred".

Fred Vigodsky

R K PRODUCTION COMPANY

2626 Glenchester Road
Wexford, Pennsylvania 15090
412-934-1892

December 5, 1996

The Honorable William Coyne
U.S. House of Representatives
2455 Rayburn Building
Washington, D.C. 20515

Dear Congressman Coyne:

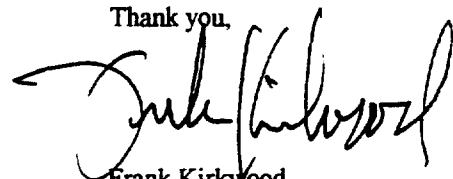
As an independent television programmer, I am very angry about the Federal Communications Commission's four year delay in implementing the leased access provisions of the 1992 Cable Act. These laws were intended to ensure that companies like mine, which are not financially affiliated with the enormous cable companies that control cable system access, would have reasonable opportunities for local cable system carriage. The FCC's lengthy delay in implementing Congress's mandate has been extraordinarily harmful to programmers like mine, as well as to the audiences we are trying to serve.

The 1992 leased access provisions - which notably were not repealed in the 1996 Telecommunications Act - were one of Congress's many responses to the increased concentration among cable system operators and the increased vertical integration between system operators and programmers. Having witnessed excessive cable company discrimination against programmers that did not have industry financial participation, Congress directed the FCC to develop regulations that would provide a realistic opportunity for unaffiliated programmers to crack the industry oligopoly and gain access to the viewing public. Unfortunately, in four years the FCC has yet to effectively implement Congress's mandate, while in the interim the integrated cable companies are engaged in a consistent industry-wide pattern of either flat-out denying access to independent programmers or offering access only under conditions which make it impossible for independent programmers to succeed. These conditions often include prices for cable time that are so high that no independent programmer can make a business work.

In addition to endless delay in developing effective regulations, the FCC has dragged its feet in dealing with complaints from leased access programmers. My company has been waiting more than seven months for rulings on complaints it has filed. Some programmers have waited much, much longer. It is impossible for a leased access programmer to do business in an environment where cable companies can behave illegally without fear of FCC action and where the FCC can nullify an Act of Congress by not making an honest effort to implement it.

I request your assistance in persuading the FCC to follow Congress's instructions on this issue.

Thank you,

A handwritten signature in dark ink, appearing to read "Frank Kirkwood", with a stylized flourish extending from the end.

Frank Kirkwood
President

TV8 ADIRONDACK TELEVISION CORPORATION

22 Nov 96

The Honorable Clarence (Larry) Irving, Jr.
Assistant Secretary for Communications and Information
U.S. Department of Commerce
14th Street & Constitution Avenue, N.W.
Room 4898
Washington, D.C. 20230

Dear Mr. Secretary:

For several months, I have worked with our industry organization, Community Broadcasters Association, and with individual broadcasters to stimulate the Federal Communications Commission to act, as mandated by the Congress, *in implementing the leased access provisions of the 1992 Cable Act*. All to no avail.

Four years ago, along with Congressman Markey and Vice President Gore, you led the successful campaign to enact the Cable Television Consumer Protection and Competition Act of 1992. Ever since, hundreds of independent television programmers and broadcasters have anxiously anticipated implementation of the Act's leased access provisions, which were intended to ensure that the vertically and horizontally integrated cable television operators could not exploit their controlling position to monopolize the programming that could be received by cable consumers.

Today, four years later, it is simply a fact that, across this country and certainly throughout New York State, small broadcasters very much like TV8 are angry at *the FCC's four-year stonewall* in formulating and implementing fair pricing and fair access formulas for leased cable space. The FCC's implementation and oversight of leased access has been shameful, and the cable companies are treating leased access programmers at least as badly today as they did in 1992. This is partly due to the inept regulations approved by the FCC, which have harmed the very people -- independent programmers, broadcasters, and consumers -- that they were intended to assist. This entire leased access exercise has been a charade, with the only winners being the cable companies.

TV8 is lucky (for the moment) in that it has good cable carriage; however, with the unpredictability and turbulence of the telecommunications industry, there is no guarantee

that will continue -- in which case, leased access will be TV8's only salvation. But aside from TV8, I know that here in the North Country a number of small television producers get whip-sawed by the unpredictable and ever-changing pricing and demands of local cable systems. Similarly, the ownership of TV8, itself, contemplates the creation of a regional, community network for the North Country -- a plan rendered futile unless leased access becomes available and financially fair to serve our communities, as contemplated by Congress.

The 1992 Cable Act was intended to insure that local and regional producers like those in the North Country (who are not financially affiliated with the enormous cable companies that control cable system access) would have reasonable opportunities for local cable system carriage. The FCC's lengthy delay in implementing Congress's mandate has been extraordinarily harmful to, and effectively prohibited development of, our regional producers of local programming.

The ultimate losers, of course, are our North Country audiences who want to see, and would benefit from local and regional programming. Absolute proof of that is the audience for our own local show, *Senior Scene*. It appears that *Senior Scene* is #1 when it is live at 11:00 a.m. and ranks #4 or #5 among our 35 channels (and against the national networks) when it reruns at 8:00 p.m., daily. Notably, and shamefully, there is no television program on the networks that serves the news, services, and information needs of the huge and crucially important demographic of seniors. Only *Senior Scene* serves this vitally important function in the North Country.

Mr. Secretary, the information superhighway will remain a fantasy if its entrance ramps are impenetrable and its tollbooths are anti-competitive. The current leased access situation harms consumers and the entrepreneurs who are trying to reach them, *and it must be changed immediately*

I urge you to communicate to the FCC that its mandate is to promulgate leased access regulations that effectuate a genuine outlet for independent programmers and broadcasters.

Please allow us to assist you in any way we can.

Best regards,

A handwritten signature in black ink, appearing to read "Charles F. Adams", with a long, sweeping underline.

Charles F. Adams
President

4031 West 61st Street
Los Angeles, California 90043
(213) 292-4469
(213) 292-1362 FAX

November 23, 1996

The Honorable Al Gore
Vice President
Old Executive Building
Washington, D.C. 20501

Re: Leased Access Cable Television

Dear Mr. Vice President:

First and foremost, I would like offer my congratulations to you and the president for your re-election to another four-year term. I especially applaud your "bridge into the twenty-first century" a goal of which I am certain that you will help to develop.

Four years ago, as a member of the United States Senate, you led the victorious effort to enact the Cable Television Consumer Protection and Competition Act of 1992. The specific part of that act of which I am concerned has to do leased access, which gives local television producers the opportunity to air their programs. Here is what leased access means to me.

As a local television producer, I can create my own television show, and then go to a small local business to sell advertisement time to pay for my production cost and air time. In this scenario everybody wins. The small business wins because it can have its commercials aired without having to pay an arm and leg. I win because I can have my programs aired without having to mortgage my home to pay for the air time, and finally, the viewers win because they get the opportunity to view programming that was not decided by lawyers and accountants¹.

I have heard our president say that "diversity is our greatest asset" and I think the leased accessed cable television plays a significant role in perpetuating such diversity, by creating an environment where diverse ideas can be aired over local cable networks.

¹ As long as commercial television is controlled by ratings, which determine how much the advertisers pay for 30 second commercial, then accountants and lawyers will determine what you and I will be watching on television. In 1992 congress recognized this and sought to remedy this problem with the leased access provision of the 1992 Cable Act.

Unfortunately Mr. Vice President, I cannot say that the FCC has complied with the spirit of the 1992 Cable Act as it relates to promulgating rules and regulations for leased access. It turns out that the large cable companies do not like leased access television because it cuts into the time available for the large cable operators. They would rather offer an hour of time to HBO rather than to make that time available to low cost productions like mine. Because of the remote control device, both productions have an equal chance at that cable viewer, who will be more inclined to watch a show that holds the interest regardless as to the cost of production.

To frustrate the spirit of the law, these large cable operators have used an assortment of tactics to discourage leased accessed producers. These tactics include:

- Setting prices for air time so high, that local producers cannot be competitive.
- Offering air times to local producers when there are few or no viewers.
- Demanding product liability insurance for infomercials
- Failing to maintain the equipment used to air leased access shows that results in poor quality telecasts that turns away potential viewers.
- Demanding that local producers obligate themselves and pay for 13 shows in advance. This policy eliminates the opportunity to air one show just to test the appeal to the audience.

As I understand, the FCC is close to promulgating new rules that will affect cable television and leased access, and I am appealing to you to encourage them to do so, so to provide for more fairness and greater opportunities for leased access producers like myself. I would specifically like to see a reduction in the price for air time, and for more opportunities available to air my shows.

Thank you for your assistance.


~~Your truly,~~

Rudolph L. Dyson
President



A Lorici Communications, Inc. Company

11/20/96

The Honorable Clarence Irving, Jr.
Assistant Secretary for Communications and Information
U.S. Department of Commerce
14th Street and Constitution Ave., N.W.
Washington, D.C. 20230

Dear Mr. Secretary:

Four years ago you, along with Congressman Markey and Vice President Gore, led the victorious effort to enact the Cable Television Consumer Protection and Competition Act of 1992. Ever since, hundreds of independent television programmers have anxiously anticipated implementation of the Act's leased access provisions, which were intended to ensure that the vertically and horizontally integrated cable television operators could not exploit their controlling position to monopolize the programming that could be received by cable consumers.

Unfortunately, the FCC's implementation and oversight of leased access has been shameful, and the cable companies are treating leased access programmers even worse today than they did in 1992. This is partly due to the inept regulations approved by the FCC, which have harmed the very people - independent programmers and consumers - that they were intended to assist. Frankly, this entire leased access exercise has been a charade, with the only winners being the cable companies.

Mr. Secretary, the information superhighway will remain a fantasy if its entrance ramps are impenetrable and its tollbooths are anticompetitive. The current leased access situation harms consumers and the entrepreneurs who are trying to reach them, and must be changed immediately.

We urge you to communicate to the FCC that its mandate is to promulgate leased access regulations that effectuate a genuine outlet for independent programmers.

Thank you for your consideration and your interest.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gerry Cunningham', is written over a horizontal line.

Gerry Cunningham, President
Lorici Communications, Inc. dba THE FIRM

P.O. Box 309 Citra, FL 32113
(888) THE-FIRM (800) 479-FIRM Local (352) 595-3000 Fax (352) 595-3008
<http://www.callthefirm.com> e-mail - thefirm@mercury.net